

**2002 STATE BAR OF CALIFORNIA ENVIRONMENT SECTION
NEGOTIATION COMPETITION FACT PATTERN**

Obergene County lies in the fertile Middle Valley of California, and is being slowly transformed from a primarily agricultural region to an urban area. The nature of agricultural operations in the area is also changing, from family-owned entities to large corporate ownership. Bucking those trends, Raul Mendoza sought and obtained a Special Use Permit from Obergene County for the establishment of the Mendoza Dairy Facility, a 4850 animal unit operation (with 3,350 milk cows) in an area covering approximately 78 acres of the 738 acre subject site. The balance of the acreage (except for about 10 percent which will be pasture land), will remain under cultivation and available for irrigation with reclaimed dairy wastewater.

While the Mendoza Dairy Facility is unusual in that it is a family-owned business, it is by no means the only such project in Obergene County. In fact, Obergene County has a large number of dairies, usually owned by corporate entities, with expectations of more in the future. Within a one-mile radius of the boundaries of the proposed Mendoza Dairy, there are four existing or proposed dairies and a non-operating poultry feedlot. Dairies in Obergene County, as elsewhere, reflect the trend towards larger industrial-style facilities, often called contained animal feeding operations or CAFOs. In 1980, California had 5,600 dairies with 878,000 cows. By 2000, the total number of dairies had fallen to 2,195, with 1,528,255 cows. Cal. Dept. of Food and Ag., "Historic Milk Production, <http://www.cdffa.ca.gov/dairy/hcamilk.htm>.

In late 2001, Obergene County, the lead agency under the California Environmental Quality Act ("CEQA"), Pub. Resources Code §§ 2100 et seq., determined that the Mendoza Dairy would not have any adverse environmental impact, and circulated a Negative Declaration for public comment. (See Pub. Resources Code §§ 21000 and CEQA Guidelines, 14 Cal. Code of Regulations §§ 15000 et seq. for specific requirements of Negative Declaration and lead agency). Obergene County received a number of comments from state and local agencies and from the public, including the Obergene Residents for Clean Air ("ORCA"). (The Negative Declaration and some of the comment letters are included in the materials attached to the Fact Pattern).

In early 2002, the Obergene County Planning Commission approved the Negative Declaration and issued a Notice of Determination along with its approval of the Special Use Permit for the Mendoza Dairy Facility. Because of the short statute of limitations period under CEQA, ORCA filed suit in a matter of days after Obergene County issued its Notice of Determination. ORCA sued Obergene County as the lead agency under CEQA and named the Raul Mendoza Facility as the real party in interest, contending that because the Mendoza Dairy could have a significant impact on the environment, Obergene County was obligated to complete an environmental impact report ("EIR") rather than a negative declaration. *See, e.g., Friends of Mammoth* (1972) 8 Cal.3d 24.

Among the issues ORCA raised during the comment period and contends give rise to the potential for significant impact to the environment are:

1. Waste water. Excessive application of dry or liquified animal wastes on fields may result in high concentrations of salts, nitrates, phosphorus, potassium, and biologically toxic elements in the soil and groundwater. *See, for example, Barthelemy v. Chino Water Basin Municipal Water District* (1995) 38 Cal.App.4th 1609. At the very least, a soil and leaching study is needed.

2. Runoff. The project may contaminate surface water through facility runoff caused by rain, resulting in manure-polluted water in surface waters, adjacent properties, county roads, and contaminated water buildup on the dry lot portions of the facility.

3. Wastewater Treatment Lagoons. Seepage from the lagoons through soil could impact groundwater.

4. Water Supply. The negative declaration does not discuss the quantity of water needed for the facility and where that supply will come from. *See Stanislaus Natural Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 195.

5. Biological Resources. No site assessment to identify habitat or the actual presence of species of concern

was completed for the project. The proposed dairy is within the historical habitat of the blunt-nosed leopard lizard and the San Joaquin kit fox, both of which are state and federal listed endangered species. Other threatened and sensitive species, such as the Swainson's hawk and the Tipton kangaroo rat occur in the area. No biological studies have been completed. *See Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296.

6. Solid Wastes. The Negative Declaration, which states that all solid waste will be taken off site, does not state the quantity of waste to be generated, the location of disposal, or the impacts of disposal.

7. Air Impacts. The Negative Declaration does not discuss the impacts from emission of fine particulate pollution, nitrogen oxide (NO_x), carbon dioxide (CO₂), ammonia and fugitive dust. Obergene County is non-attainment for NO_x and particulates under the federal Clean Air Act.

8. Worker health and safety. There is no discussion of possible impacts of handling animal waste on workers in the dairies.

9. Cumulative Impacts. There are a large number of dairies in the area of the proposed Mendoza facility, and there are numerous other dairies proposed for the county. The negative declaration does not discuss the potential for cumulative impacts of the many dairies on water supply, water quality, loss of cultivated agricultural land, smell, dust, noise, or any other impact. *See* 14 C.C.R. §§ 15064 and 15065.

The County responded that it had considered all impacts, that the Mendoza Dairy will meet and exceed all local and state laws and regulations concerning surface water runoff, seepage, air emissions, and solid waste. Specifically:

1. The Facility will follow the requirement for dairies set forth by the California Water Quality Control Board. *See* 27 C.C.R. §§ 22560-22565.

2. The Facility meets all air emission requirements of the Middle Valley Air Pollution Control District.

3. Water for the Facility can be supplied by the on-site wells.

4. All solid waste will be used as fertilizer for crops in the area.

5. The land proposed to be used as a dairy has been in cultivation for years, and it is almost a certainty, therefore, that the proposed dairy area contains no endangered species habitat. In essence, the damage has already been done, and further disturbance by the dairy is irrelevant.

6. Lagoons will be lined to avoid leakage.

7. Worker health and safety issues are within the domain of Cal-OSHA, and not subject to CEQA review.

8. While there are a number of dairies in the area, individual and cumulative impacts from them are minimal, and are consistent with the existing agricultural usage, and therefore do not give rise to the need for cumulative review.

While the County believes that it has some good arguments under CEQA, it recognizes that the CEQA standard triggering the need for an EIR is a low one, and that ORCA may be able to make a sufficient showing to meet the requirement. In addition, Raul Mendoza wants to proceed with the facility as soon as possible, and does not want to spend precious time litigating the matter.

ORCA has agreed to meet first with Mendoza to talk about the Mendoza Dairy Facility specifically, and, then later with the County to discuss the county-wide impacts of the numerous dairies existing and proposed. Therefore, there will be two separate negotiations, first between ORCA and Mendoza (Round 1), and second, between ORCA and the County (Round 2).¹

¹Mendoza's and the County's interests may be at odds. It is therefore almost certain that the County and Mendoza

Round 1

Mendoza wants to proceed with the dairy facility. If the County has to draft, circulate, and approve an EIR, the project could be delayed for two years or more. Mendoza's loan approval from the bank will expire in twelve months. The dairy will employ a dozen people and result in significant tax revenue to the County. Mendoza expects the new dairy to be profitable, and is willing to make some up front expenditures for "environmentally beneficial projects" (i.e., mitigation) related to possible impacts of the dairy.

For its part, ORCA is suffering some internal turmoil. Many of its members are strongly opposed to further dairy development in the County because of the impact on nearby property owners. The current ORCA leadership, however, does recognize that, unlike most of the dairies, the Mendoza facility is owned by a local family which has lived in the area for generations. The ORCA leadership is also concerned that the other dairies in the County have been approved through Negative Declarations, before ORCA, which was formed only recently, was specifically aware of the issue. If ORCA leadership concedes too much, the organization could disintegrate. But while the leadership would like to make a stand against the dairies, they are willing to allow Mendoza to proceed if they can be assured that the dairy will include state of the art facilities, and that it will modify its operations in the future if certain findings are made by Mendoza or the County. The ORCA negotiators have a very fine line to walk.

The parties have narrowed the discussion.

Mendoza has offered to do a biological assessment; an air impact analysis; an analysis of water runoff, soils, and water quality; an evaluation of cumulative impacts for the area immediately adjacent to the proposed facility (but not an EIR). Mendoza has agreed to implement the newest and best technology for lining of the wastewater treatment lagoons. In addition, Mendoza has offered a "grant" of \$300,000 to ORCA for ORCA's own study of the impacts of dairies in the County. In light of the grant, Mendoza has declined to offer attorneys fees and insists that the \$300,000 cannot be used to pay fees. While Mendoza has agreed to do the analyses, it has not agreed to implement any actions that may be identified by the studies.

ORCA, for its part, agrees that the studies are appropriate and that the lagoon system is acceptable (pending review by an engineer who is a member of ORCA), but insists that Mendoza must agree to have the studies done by consultants approved by ORCA and must mitigate to "insignificant" any impacts identified by any of the studies. In addition, ORCA wants Mendoza to do a study of health and safety impacts on dairy workers and mitigate any impacts that it finds. Finally, while ORCA is very interested in the proposed grant of \$300,000, it recognizes that it will not be able to fight further dairy development if it does not pay its attorneys (who are negotiating any agreement). ORCA has no source of funds other than a settlement.

If the Mendoza dairy is to proceed without an EIR, the parties must reach agreement on:

1. Who determines and approves consultants for studies, and who controls the scope of the studies;
2. Actions to be taken by Mendoza if the studies identify impacts;
3. Whether a worker health and safety impact study should be conducted [and its scope];
4. The amount and nature of a "grant;"
5. Attorneys fees.

A lot is at stake for both parties. Without an agreement, the Mendoza Dairy could fail, but too expensive an agreement could doom the dairy as well. With an agreement perceived as too favorable to Mendoza, ORCA could collapse.

would have different counsel in this matter. For purposes of this exercise, however, counsel will represent Mendoza in the first round and the County in the second round, without reference to any ethical dilemmas.

Round 2

(For purposes of this negotiation, assume that there has been no agreement reached between ORCA and Mendoza in Round 1).

ORCA wants the County to complete EIRs for all proposed dairies, and in particular, wants a full cumulative impact analysis for all dairies in the county proposed and reasonably foreseeable in the future. The County believes that if it must complete an EIR for each dairy, the dairies will go elsewhere, including to counties that do not require any permits for such facilities (and therefore do not do any CEQA documentation at all).

The County has proposed a County-wide EIR to study possible impacts, including cumulative impacts, of all dairies currently and potentially in the County, and that such an EIR operate as a programmatic EIR from which specific dairy projects, such as Mendoza can be tiered. *See* Pub. Resources Code §§ 21068.5, 21093; 14 C.C.R. §§ 15152, 15385. The County sees a number of benefits of a County-wide EIR. It will allow the County to plan for future dairies in a more organized fashion, it will streamline approval of future dairies (allowing tax revenues to flow sooner), and may help define some of the County's groundwater issues more clearly. ORCA is interested in the idea, but fears that the programmatic EIR will be too general, and that future dairies will be approved pursuant to negative declarations by simply stating that all impacts are discussed in the programmatic EIR.

Additionally, the County wants the Mendoza dairy to proceed under the negative declaration even as it proceeds with a programmatic county-wide EIR. ORCA believes that it has much more leverage to ensure a full and fair programmatic EIR if Mendoza and other dairy projects are halted while the County prepares the programmatic EIR.

ORCA insists on a full biological inventory and assessment for all areas of the County where dairies could be located; a full assessment of air impacts; evaluation of water quality impacts and water availability; soils evaluation; runoff impacts; traffic; noise; odors; impacts of dairies on worker health and safety; and cumulative impacts in the county. In addition, ORCA wants an evaluation of the impacts of dairies and proposed dairies on low income communities and communities of color in the County. Obergene County has a significant Latino population, a smaller African-American population, and an above state average percentage of people living below the poverty line. Anecdotally, proposed dairies appear to be located disproportionately in low income and communities of color.

The County recognizes that it must study biological, air, water, and other environmental impacts, but it is very wary of studying worker safety issues and strongly opposed to evaluating impacts on communities of color. The County fears that such a study could cause political problems, particularly given the fact that thirty percent of the County's population is Hispanic. The County believes that CEQA does not require a worker health and safety study and that an evaluation of impacts on particular racial and income groups is outside of its obligation under CEQA, particularly where, in many areas of the County, the majority of the population is Hispanic.

Finally, the County will pay a small amount of attorneys fees, far less than the \$150,000 sought by ORCA.

For this negotiation, the parties seek to resolve the following issues:

1. What studies must be in the EIR, with particular emphasis on the worker health and safety study and the environmental justice study;
2. Timing of the EIR. The County wants an agreement that circulation of the EIR and the comment period be truncated. ORCA is opposed to the idea.
3. The County wants to allow the Mendoza Dairy to proceed now under the Negative Declaration with some additional studies. ORCA insists either on a full EIR for Mendoza or that it await the County-wide EIR and tier off of that.
4. Attorneys fees.

**2002 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR MENDOZA DAIRY ATTORNEYS
ROUND 1**

Mendoza is in a difficult position. Under CEQA, it is the County that makes the decision whether to proceed by an EIR or a negative declaration. Mendoza has input into the decision, but cannot control it. Mendoza's bank loan approval will expire before an EIR can be completed. Mendoza believes that its proposed dairy will be quite profitable, so it is willing to spend some money up front if it will allow the dairy to proceed.

Mendoza recognizes that in order to proceed without a full EIR, it must agree to do a series of studies, including air, water, biological, waste, and cumulative impacts. Mendoza is prepared to fund those studies and to be flexible on which consultants do the studies. Mendoza, for example, could propose three or four consultants for each or a series of the studies, and ORCA could choose which consultant would proceed. Alternatively, Mendoza would be willing to review ORCA suggestions for consultants. Mendoza, however, must have some control over the scope and cost of the studies. Mendoza believes that can be addressed through a short-turn-around RFP (request for proposal) process, in which Mendoza and ORCA will both have some input, with Mendoza having the final say.

The bigger problem for Mendoza is what to do about any impacts identified by the study. Mendoza cannot sign a blank check and cannot agree to mitigation measures that put it at a competitive disadvantage with other dairies. Mendoza is willing to agree to a combination of state of the art facilities, such as for the waste lagoons, and a process for evaluation and negotiation for any mitigation identified by the studies. Mendoza cannot, for example, agree, sight unseen, to mitigation for cumulative impacts. Mendoza believes that if it can get an agreement from ORCA that the dairy can proceed simultaneously with the studies, and that it will work with ORCA to institute reasonable and appropriate mitigation identified by the studies, that should be sufficient. Mendoza recognizes, however, that obtaining agreement to proceed with the dairy before completion of the studies would be a large concession by ORCA and very valuable to Mendoza. Mendoza will give as much assurance on mitigation as possible without committing to signing a blank check.

Mendoza is willing to do a worker health and safety impact study, pursuant to parameters determined by Mendoza (with some, but limited input from ORCA), but will not agree to any mitigation or any process for evaluating mitigation for these impacts. Mendoza does not believe that worker safety studies are part of the CEQA process, and believes that its proposal goes above and beyond its obligations. *See* 14 C.C.R. §§ 15125-31.

In order to get over the hump on the EIR issue, Mendoza has proposed giving ORCA a \$300,000 grant to use as it sees fit for studies of dairy related issues in the County. Mendoza insists that the money cannot be used for attorney fees, now or in the future. Mendoza is prepared to offer up to \$375,000, and to allow up to \$25,000 of the total to be used as "cost reimbursement" by ORCA's counsel. Mendoza dislikes ORCA's counsel and does not want to pay fees; Mendoza also knows that pitting the organization against the attorneys could cause trouble for ORCA. *See, e.g., Evans v. Jeff D.*, 475 U.S. 717 (1986). If fees are the only issue remaining between the parties, Mendoza will, if it must, agree to \$25,000 in fees and \$20,000 in costs, but if any fees are explicitly paid, Mendoza will limit its total payment to ORCA to \$300,000.

On behalf of Mendoza, you should be prepared to make the initial proposal to set the negotiation in motion. Your proposal should include something forth each of the five elements set for in the text (consultants, mitigation, worker health study, grant to ORCA, attorneys fees).

**2002 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR ORCA ATTORNEYS
ROUND 1**

ORCA knows that it has a strong legal position to insist on an EIR. An EIR, however, may or may not get ORCA what it wants. The County could do a less than thorough EIR, find few or no impacts, approve the project, and force ORCA to sue. ORCA has limited resources, and cannot count on legal representation, as it has no money to pay counsel. Counsel can recover fees under CEQA if ORCA wins, but that could be a long-term prospect. In addition, ORCA would like to establish the precedent of a worker health study, and it is quite intrigued by Mendoza's proposal of a \$300,000 grant.

ORCA would love to choose the consultants for the various impact studies and would love to have an agreement from Mendoza that the dairy will incorporate any mitigation identified by the studies. ORCA recognizes that such a possibility is unlikely. It will settle for significant input into selecting the consultants and in defining the nature and scope of studies. ORCA believes strongly that any mitigation identified as appropriate by the studies must be presumed appropriate and that Mendoza must show why such mitigation will not be done. ORCA will agree to a mediation process for determination of mitigation, as long as Mendoza pays for the process, and as long as a court can make the final determination if mediation fails. ORCA is willing to allow the dairy to proceed simultaneously with the studies (as opposed to awaiting completion of the studies) *only* if it has a sufficient belief that mitigation will be done. Allowing the dairy to proceed before completion of the studies is a large concession, and should only be given if ORCA gets concessions on mitigation.

ORCA very much wants to have a worker health and safety study completed so that it can pursue such a study at other dairies. The existence of the study is more important to ORCA than requiring that any particular conclusions of the study be immediately implemented. ORCA believes with such a study it will have leverage with the County and State to force worker health and safety measures.

ORCA wants the \$300,000 grant proposed by Mendoza. It will make ORCA a significant voice on dairy issues in the County. On the other hand, it doesn't want to alienate its attorneys, and may need them, for example, in litigation with the County. The attorneys have made it clear to ORCA that fees are essential. The attorneys believe, and ORCA reluctantly concurs, that between \$40,000 and \$75,000 is appropriate. The attorneys could accept some portion as "costs," but only about \$10,000, as that is the actual amount of cost incurred. Alternatively, ORCA could take a total amount described as "fees and costs." Both the attorneys and ORCA recognize the sensitive and difficult nature of this issue and that Mendoza does not like the attorneys and wanted to create this potential conflict between ORCA and its attorneys. *See, e.g., Evans v. Jeff D.*, 475 U.S. 717 (1986).

Mendoza has been asked to make an initial proposal to set the negotiations in motion.

**2002 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR ORCA ATTORNEYS
ROUND 2**

ORCA knows that the County has no obligation to do a Countywide dairy EIR. The proposal has advantages for both ORCA and the County. For ORCA, it will allow public input into a Countywide issue and, for the first time, require consideration of impacts on a much greater scale, with the potential that such a thorough process could result in less haphazard land use decisions. The County could avoid at least some challenges to site specific EIRs and allow dairies to proceed more quickly.

With respect to two of the outstanding issues, ORCA has the upper hand and has no intention of letting it go. ORCA believes that the Mendoza dairy requires a site-specific EIR in the absence of a Countywide EIR. Therefore, it will not agree to allow the Mendoza dairy to proceed under a negative declaration until the completion of the Countywide EIR. The County can do a Mendoza EIR if it wishes to proceed with that dairy. In addition, ORCA will not agree to a shortened circulation or comment period for any EIR. It believes that public review provided for the EIR is already insufficient. ORCA will not compromise on these points.

ORCA recognizes that the County does not need ORCA's agreement to proceed with a Countywide EIR. The County can proceed with the EIR, with whatever content that it sees fit, and leave it to ORCA to review the document, comment on it, and determine whether to sue once the EIR becomes final. There may be two exceptions to this. First, Obergene is a non-attainment area for NOx and particulates, so the County must pay close attention to air impacts. Second, many of the potential locations for dairies in the county are in areas with endangered species. ORCA could pursue litigation under the Clean Air Act or the federal or state Endangered Species Act if the County takes insufficient actions. ORCA, therefore, wants to get specific assurances of full evaluation of these impacts in this negotiation. In addition, ORCA, for its part, very much wants to establish the precedent of a worker health and safety study and an environmental justice study, in which the County considers the impacts of dairies on communities of color and low income communities. ORCA hopes that its attorneys will come up with some supporting authority for pursuing these studies in the EIR.

ORCA does not have much to offer the County in exchange for the two specific studies (in addition to other appropriate impact studies determined by the County). It will not give up its right to challenge the EIR or any proposed mitigation, and it will, in theory, only drop its Mendoza lawsuit if the County completes its countywide EIR. The County, in ORCA's view, must do either the Mendoza EIR or a Countywide EIR. Litigating the issue (with respect to Mendoza) will not help the County and simply generate litigation costs. These are significant costs for the County. On the other hand, ORCA does not have the money to fund a drawn-out litigation. A full-scale effort in the Mendoza case could bankrupt ORCA. In addition, while ORCA seeks attorneys fees of \$150,000, based on a high-end estimate of \$75,000 in actual fees and a multiplier of 2, *see* Code Civ. Pro. § 1021.5; *Press v. Lucky Stores* (1983) 34 Cal.3d 311, 312; *Serrano v. Unruh* (1982) 32 Cal.3d 621, 624-26, ORCA recognizes that its fee demand is inflated. If it gets the studies it wants, it will accept no less than \$10,000 in costs and \$15,000 in fees, with the attorneys having a very significant interest in obtaining more. If ORCA can obtain more than \$40,000, the attorneys will split a portion of the recovery (for costs) with ORCA. ORCA can then fund further activities, including participation in the County-wide EIR process. ORCA could accept "fees and costs" without designating a specific amount for costs.

ORCA should be prepared to present a settlement proposal to get discussions moving, which should include the need for a Countywide EIR, a position on the Mendoza EIR and the timing of the Countywide EIR, the inclusion and extent of four studies (along with all other relevant studies): air, biological assessment, worker health, and environmental justice), and costs and attorneys fees.

**2002 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR COUNTY ATTORNEYS
ROUND 2**

The County is under substantial pressure from the Dairymen's Association and from the Mendoza Dairy to proceed quickly and to allow the Mendoza Dairy to proceed now. The County recognizes that, with respect the EIR issue—whether Mendoza needs an EIR—it has a weak legal position. An EIR is likely required.

The County has no obligation to do a Countywide EIR and can make its own determination as to the content of such an EIR (with appropriate input from the public through a scoping process). The County need not offer ORCA any concessions on the EIR, and does not believe that an EIR should or needs to include either a worker safety study or an environmental justice study. It fears that both studies are bad precedent for the County and for other jurisdictions. On the other hand, ORCA can tie up the EIR process potentially for years through litigation—assuming ORCA has the financial ability and will, making neither the County nor the Dairymen's Association happy.

The County seeks both a shortened time-frame for public comments and review for the Countywide EIR and agreement that the Mendoza Dairy can proceed without an EIR. The County does not believe that it will get ORCA to agree to either, but considers it worth asking for. (The County is not even sure that a truncated EIR process is really in the County's interest, but wants to allow Mendoza to proceed quickly). The County believes that it can complete the EIR process in one year (even without shortening the public review period), and allow Mendoza to proceed before his bank financing lapses. The County must get ORCA to agree to allow Mendoza to proceed on all other permits (including a water discharge permit and a building permit) concurrently. If Mendoza can obtain all permits, he will be able to proceed immediately upon approval of the EIR.

In its Countywide EIR, the County will agree to do a full and fair evaluation of air impacts and endangered species issues, and will evaluate mitigation as appropriate. The County is willing to so state in a settlement agreement. It is also willing to do some type of environmental justice evaluation in the Countywide EIR, based on a scope that it will determine with some public input (and that should remain less than completely defined for purposes of settlement at this time). It will discuss worker health and safety issues only to the extent that they relate to environmental hazards at dairies.

The County has two cards. It knows that ORCA is under funded, and that its attorneys likely cannot afford to engage in extensive litigation. If ORCA does not agree to allowing Mendoza to proceed with its other permit approvals (without being subject to CEQA litigation), the County will force ORCA to litigate the Mendoza case. In addition, as the carrot, the County will pay a larger attorneys fee award that it would normally consider. It will pay as much as \$25,000 in costs and \$30,000 in fees, but direct its attorneys to take a very hard line on this issue, only agreeing to pay these amounts, or anything close to them, at the end of the settlement process after ensuring that the County's control of the EIR content is largely intact, and obtaining concessions on timing. All costs and fees must be fully documented, and the County will not consider a multiplier on the fees.